

**ENTERED**

December 03, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

REUBEN DAVILA, *et al*,

Plaintiffs,

VS.

STATE FARM LLOYDS,

Defendant.

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CIVIL ACTION NO. 2:19-CV-275

**ORDER OF ABATEMENT**

On August 26, 2019, Plaintiffs filed this action to, among other things, recover insurance benefits for property damage allegedly caused by Hurricane Harvey. D.E. 1-2, pp. 5-18. On September 20, 2019, the insurance carrier, Defendant State Farm Lloyds, filed its answer, which included a verified plea in abatement, reciting that Plaintiffs had not provided it with notice required by Texas Insurance Code § 542A.003. D.E. 1-2, pp. 24-25, 34-39. Also on that date, Defendant removed the action to this Court pursuant to diversity jurisdiction, 28 U.S.C. § 1332. D.E. 1. On November 27, 2019, the parties filed their Joint Discovery and Case Management Plan, noting the pendency of the plea in abatement and Plaintiffs' failure to file any response. D.E. 5, p. 4.

Pursuant to Texas Insurance Code § 542A.005(c):

An action is automatically abated without a court order beginning on the 11th day after the date a plea in abatement is filed if the plea:

(1) is verified and alleges that the person against whom the action is pending:

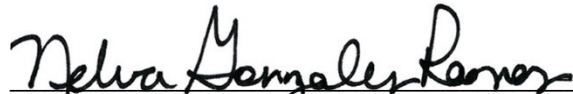
(A) did not receive a presuit notice complying with Section 542A.003 . . . and

(2) is not controverted by an affidavit filed by the claimant before the 11th day after the date the plea in abatement is filed.

The abatement is to continue until the expiration of sixty (60) days from the date notice is provided. Tex. Ins. Code § 542A.005(e).

For the reasons set out above, this action is **ABATED** for sixty (60) days from the date Plaintiffs give Defendant the notice required by Texas Insurance Code 542A.003. The Court **ORDERS** Plaintiffs to give Defendant notice on or before December 18, 2019, and to file with this Court an advisory stating that Plaintiffs have complied with this Order and the date notice was actually given so that this Court may properly administer its docket. **TAKE NOTICE** that, in the event Plaintiffs fail to comply with this Order and the § 542A notice requirement, the Court will take that failure as want of prosecution, and may dismiss this action on proper show cause notice.

ORDERED this 3rd day of December, 2019.

  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE